

TITLE 2: PUBLIC MORALS, SAFETY AND WELFARE
DIVISION 3: FIRE PROTECTION AND EXPLOSIVES AND HAZARDOUS MATERIALS
Chapter 6 - PERMITS, INSPECTIONS AND HEARING PROCEDURES FOR
HAZARDOUS MATERIALS.

Sections:

- 23.0601 Authority.
- 23.0602 Current CUPA Operational Permit Required.
- 23.0603 Division Plan Review and Construction Permits Required.
- 23.0604 Administration of CUPA Permits, Special Processing Fees and Penalties.
- 23.0605 Operating With an Expired Permit Unlawful.
- 23.0606 Grounds for Revocation of CUPA Permits; Administrative Procedures and Penalties for Continued Operation.
- 23.0607 New CUPA Permit Required After Revocation.
- 23.0608 Grounds for Summary Suspension of CUPA Permit and Penalties for Continued Operation.
- 23.0609 Inspections.
- 23.0610 Administrative Hearing Procedures.

23.0601 Authority.

Pursuant to the authority cited in Chapter 4 of Division 3 of Title 2 of the San Bernardino County Code, the Department shall enforce the following permits and hearing procedures.

Ordinance 3846 (2002);

23.0602 Current CUPA Operational Permit Required.

(a) No person or entity shall own, operate or allow the operation of any activity or facility subject to the requirements of the CUPA Permit Program Elements, whether for permanent or temporary activities, including but not limited to the generation, production, storage, treatment or other handling of hazardous materials or hazardous waste, nor own or operate a transporter facility as defined in Section 23.0711(d) of this Code, without first applying for, receiving, and retaining an unexpired, unrevoked, unsuspended, CUPA permit for each activity or facility and paying fees in those amounts specified in Chapter 2 of Division 6 of Title 1 of the San Bernardino County Code.

(b) The CUPA permit includes, but is not limited to, the following six (6) Program Elements as described in Articles 1-6 of Chapter 7 of Division 3 of Title 2 of this Code:

- (1) Hazardous Waste Generators and Hazardous Waste On-Site Treatment.
- (2) Underground Storage Tanks.
- (3) Hazardous Material Release Response Plans and Inventories.
- (4) California Accidental Release Prevention (CALARP) Program.
- (5) Above Ground Storage Tanks (AST) (spill prevention control and countermeasure plan only).

(6) Uniform Fire Code Hazardous Material Management Plans and Inventories.

(c) Each applicant shall provide all relevant information regarding:

- (1) Assessor's parcel number;
- (2) Board of Equalization number;
- (3) all past and present DBAs and fictitious business names;
- (4) driver's license number and state of issue;
- (5) Federal Environmental Protection Agency (EPA) or State EPA identification number;
- (6) federal tax identification number/social security number;
- (7) Dunn & Bradstreet number;
- (8) names, addresses and phone numbers of the business, the applicant, and the owner;
- (9) name and twenty-four (24) hour phone number of the emergency contact person;
- (10) number and type of employees;
- (11) number of underground storage tanks;
- (12) Standard Industrial Code (SIC) number for all locations; and
- (13) a declaration under penalty of perjury that the information provided

is true and correct.

(d) In addition to (c)(1) through (c)(13) above, each applicant shall provide all relevant information required for each applicable Program Element as described in Articles 1-6 of Chapter 7 of Division 3 of Title 2 of this Code.

(e) Any person or entity who has been issued a valid CUPA Operational Permit shall notify the Division of any changes in management or ownership.

(f) Issuance of a CUPA Operational Permit by the Division shall be in no way construed as authorization for land use approval, nor shall it preclude any state or local permitting agency requirements.

Ordinance 3846 (2002);

23.0603 Division Plan Review and Construction Permits Required.

(a) No person or entity shall commence any construction activity, remodel, alteration, addition or change in equipment and/or scope of operation for any activity or facility subject to the CUPA's permitting and enforcement authority as stated in Section 23.0401 of this Code, whether permanent or temporary, without first obtaining written approval of three (3) sets, or more as required herein, of detailed plans accompanied with plan check fees in those amounts specified in Chapter 2 of Division 6 of Title 1 of the San Bernardino County Code.

(b) Scaled plans shall be in conventional form that allows rapid review. Where complex, unique, or peculiar public health and safety risks may be created by the proposed activity or facility, the Division may require special engineering studies sufficient to demonstrate that every reasonable action to eliminate or reduce such risks has or will be undertaken. No deviation from approved or

corrected plans shall occur without written approval. No construction or related activity shall occur at the job site without approved or corrected plans being present. Inspection and approval shall be obtained at the completion of each construction phase.

Ordinance 3846 (2002);

23.0604 Administration of CUPA Permits, Special Processing Fees and Penalties.

Except as otherwise provided in Chapters 4, 5, 6 and 7 of Division 3 of Title 2 of the San Bernardino County Code, CUPA permits shall not be transferable from one person or entity to another or from one location to another. Each CUPA permit shall be placed in a conspicuous place at the permitted facility. Permit holders shall renew CUPA permits prior to their expiration. The Division may assess reasonable special processing fees and delinquent fees against any activity or facility operating without a CUPA permit; with an expired, suspended, or revoked CUPA permit; and when checks are returned without payment all as set forth in Chapter 2 of Division 6 of Title 1 of this Code.

Ordinance 3846 (2002);

23.0605 Operating With an Expired Permit Unlawful.

Any person or entity operating or allowing the operation of any activity or facility subject to this Chapter with a CUPA permit expired for more than thirty (30) calendar days without having made application for renewal, shall be guilty of a separate offense for each day or portion thereof such violation exists as specified in Section 23.0412 of this Code.

Ordinance 3846 (2002);

23.0606 Grounds for Revocation of CUPA Permits; Administrative Procedures and Penalties for Continued Operation.

(a) The Division may revoke CUPA permits for noncompliance with applicable law or otherwise for just cause where the health or safety of the public may be endangered.

(b) Prior to such revocation, the Division shall, pursuant to the provisions of Chapter 4, 5, 6 and 7 of Division 3 of Title 2 of the San Bernardino County Code, notify the CUPA permit holder to show cause why the CUPA permit should not be revoked. The notification shall state the allegations and facts leading to its issuance.

(c) Unless the CUPA permit is also suspended in addition to being revoked, any activity or facility may continue to operate pending action on the Administrative Order to Show Cause regarding revocation.

(d) Continued operation of any activity or facility after revocation or suspension of relevant CUPA permits is an infraction or misdemeanor pursuant to Section 23.0412 of this Code.

Ordinance 3846 (2002);

23.0607 New CUPA Permit Required After Revocation.

All conditions upon which the Division based a revocation shall be corrected prior to an activity or facility being granted a new CUPA permit. Where revocation of a CUPA permit has occurred, the applicant shall apply in the manner provided for new applicants, shall pay all appropriate fees, and shall include a certificate of compliance signed by the applicant that all conditions upon which the revocation was based have been completely corrected. An inspection by this Division shall be conducted to verify that all outstanding violations have been corrected prior to issuance of a new CUPA permit.

Ordinance 3846 (2002);

23.0608 Grounds for Summary Suspension of CUPA Permit and Penalties for Continued Operation.

The Division may summarily suspend a CUPA permit when an Investigative Officer finds continued operation of the facility or activity constitutes an immediate public health risk. Any person continuing to operate any activity or facility after suspension of CUPA permit shall be guilty of an infraction offense or misdemeanor offense pursuant to Section 23.0412 of this Code. Any suspension shall remain in effect until such time that it is determined that grounds for suspension no longer exist.

Ordinance 3846 (2002);

23.0609 Inspections.

(a) The Division will conduct routine inspections of every facility that is subject to the requirements of the CUPA Permit Program Elements within its jurisdiction.

(b) After each inspection, the Division will prepare an inspection report, detailing the inspection and will furnish a copy to the permit holder.

(c) In addition to, or in lieu of, the inspections specified in subsection (a), the Division may require the permit holder to employ special inspectors to periodically conduct an audit or assessment of the permit holder's facility to determine whether the facility is in compliance with applicable Sections of the California Health and Safety Code, the California Code of Regulations and this Code, and to prepare a special inspection report with recommendations concerning the storage of hazardous materials or hazardous waste in compliance with the CUPA permit.

(1) the report shall contain recommendations for compliance with CUPA permit requirements. A copy of the report shall be filed with this Division at the same time the inspector submits the report to the permit holder.

(2) within thirty (30) calendar days after receiving this report, the CUPA permit holder shall file with the Division a plan to implement all

recommendations for CUPA permit compliance contained in the report or shall demonstrate to the satisfaction of the Division why these recommendations should not be implemented.

Ordinance 3846 (2002);

23.0610 Administrative Hearing Procedures.

Notwithstanding any other administrative procedure of the County, and unless otherwise specified by state law, the following administrative procedures shall apply to all hearings required pursuant to orders written pursuant to the provisions of Chapter 4, 5, 6 and 7 of Division 3 of Title 2 of the San Bernardino County Code. The following procedure shall not be applicable to hearings before the San Bernardino County Board of Supervisors.

(a) An appeal made under this Section shall be made in writing and filed with the County Fire Chief within fifteen (15) calendar days of receipt of an order written pursuant to provisions of Chapters 4, 5, 6 and 7 of Division 3 of Title 2 of the San Bernardino County Code. The appeal shall contain the address to which the Notice of Hearing shall be sent in order for the appeal to be valid.

(b) The hearing officer shall be the County Fire Chief or another person appointed by the Chief. Any such appointee shall be a person who has no knowledge of the facts of the particular case at the outset of the hearing and a person who is not immediately involved with enforcement activities pertaining to the particular activity or facility concerned.

(c) For permit revocation proceedings pursuant to Section 23.0606 of this Chapter, the hearing shall be held within fifteen (15) calendar days after receipt of a request for a hearing. For permit post-suspension proceedings pursuant to Section 23.0608 of this Chapter, the hearing shall be held within five (5) calendar days after receipt of a request for a hearing. For all other proceedings, the hearing shall be held within ninety (90) calendar days after filing of a request for a hearing. Upon written request of the permit holder, the hearing officer may postpone the hearing date or it may be postponed or continued by stipulation of the parties. If the party notified does not respond or appear, no further hearing procedure shall be required.

(d) Witnesses shall swear or affirm to tell the truth. The oath or affirmation shall be administered by the hearing officer. The investigative officers shall present their case first with oral testimony, documentary or other evidence. The responding party shall have the right to be represented by counsel and shall have the right of cross-examination. The responding party may present a response after the investigative officers have presented their case. The investigative officers shall have the right of cross-examination. After both sides have completed presenting evidence, the investigative officer may comment on the evidence and argue. Thereafter, the responding party may do the same.

The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that

might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing. Irrelevant and unduly repetitious evidence shall be excluded.

(e) The Hearing Officer shall issue a written notice of decision to the permittee within five (5) County working days following the hearing. In the event of a suspension or revocation, the notice shall specify the acts or omissions with which the permittee is charged and shall state the terms of the suspension or that the permit has been revoked.

Ordinance 3846 (2002);